

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
CONSUMERS ENERGY COMPANY)	Case No. U-18393
for authority to amend its renewable energy plan.)	
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At the August 23, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

On May 12, 2017, Consumers Energy Company (Consumers) filed an application and the affidavit of Teri L. VanSumeren in support of the application, under MCL 460.1033(3), requesting *ex parte* Commission review and approval of an amendment to its renewable energy plan (REP) originally approved on May 26, 2009, in Case No. U-15805, and subsequently amended several times. The most recent approval of Consumers' biennial REP was in Case No. U-17792 on March 29, 2016. The application requests a determination that the amended REP is reasonable, prudent, and in compliance with 2008 PA 295, as amended; approval of a pilot voluntary green pricing program called the Voluntary Large Customer Renewable Energy Pilot Program (VLC Pilot); and approval of the VLC Pilot tariffs. Consumers stated that approval of the VLC Pilot and its tariffs will not alter rates and will not increase the cost of service to Consumers' customers; therefore, the application may be approved on an *ex parte* basis.

On May 25, 2017, Environmental Law and Policy Center (ELPC) filed a petition to intervene and objections to Consumers' application. ELPC argues that the program should not be approved on an *ex parte* basis because it "threatens to short-circuit the careful consideration and transparent review process already underway to review green pricing programs under Act 342."¹ ELPC's objections, p. 2. ELPC argues that the VLC Pilot is not really a pilot program, but is a "separate green pricing program that would be accessible only to a small number of the Company's customers through a process that offers none of the safeguards and deliberation necessary to establish confidence in the program." *Id.* ELPC also argues that *ex parte* approval is not appropriate because the cost of service for participants in the program would "almost certainly" increase and not enough information was provided to determine whether the program would increase cost of service to non-participants. ELPC's objections, p. 3. ELPC requests that the Commission deny the *ex parte* application and review the program in Case Nos. U-18349 and U-18351 because Consumers will be required to provide more thorough information for the Commission to evaluate in those dockets. ELPC's objections, pp. 11-12.

On May 30, 2017, Michigan Environmental Council (MEC) filed a petition to intervene and a response to Consumers' application. MEC objects to Consumers' application for three reasons. First, MEC asserts that the application is not eligible for *ex parte* approval because it modifies the REP's revenue recovery mechanism because the VLC Pilot would use funds already collected from one program to develop another program and use a credit from the new program to pay back the original program. MEC's response, p. 1. The second reason MEC objects to the application is that there is insufficient information to determine if the customers who, in essence through

¹ 2016 PA 342, MCL 460.1061 (Section 61), requires electric providers to offer its customers the ability to participate in a voluntary green pricing program.

payments of surcharges and transfer costs under other plans, have loaned money to the VLC Pilot to build the facilities necessary for the VLC Pilot, will be made whole by the credit back to the REP from the VLC Pilot customers. MEC's response, p. 2. The last reason MEC objects to Consumers' application is that it is unclear how the VLC Pilot will relate to the Section 61 programs and whether the terms offered in the VLC Pilot will be the same as the terms offered to Section 61 participants. *Id.* MEC alleges that Consumers filed this application to circumvent the closer scrutiny of the green pricing program dockets and a contested case process. MEC's response, p. 8.

Also on May 30, 2017, Energy Michigan, Inc., filed objections to Consumers' application. Energy Michigan asserts that the company failed to demonstrate that the VLC Pilot will not result in an increased cost of service to its customers. Energy Michigan's objections, p. 3. Energy Michigan also objects to the application because it is contrary to the Commission's directive in Case Nos. U-18349 and U-18351 that green pricing programs be filed in those dockets. Energy Michigan recommends that the Commission deny the application and require the company to re-file the application in the appropriate Section 61 docket.

On June 12, 2017, Consumers filed a response to the objections stating that none of the objections provide a compelling reason for the Commission to deny the VLC Pilot. Consumers argues that the objections improperly characterize the VLC Pilot and maintains that this application is not an attempt to circumvent the process for implementing Section 61 programs. The company states that, contrary to ELPC's and Energy Michigan's objections, it is not requesting approval of the VLC Pilot under Section 61. Consumers' response, pp. 3, 6. Consumers explains that the use of the term "pilot" is intended to mean that the three-year period for the pilot program is to help the company "assess customer interest and gain experience in

renewable energy offerings to large customers” and is not intended to be in conflict with or cause concern with the potential 20-year service agreement term. Consumers’ response, p. 4, footnote 1.

In response to Energy Michigan’s objection that *ex parte* approval is not appropriate because rates of program participants will increase, Consumers points to the facts that the VLC Pilot is a voluntary program, and in previous cases with voluntary programs, the Commission has found that *ex parte* approval is appropriate. Consumers’ response, p. 6. To address Energy Michigan’s objection that the program will impact other customers and the overall revenue requirement, Consumers states that this claim is unsupported and reiterates that, as explained in the affidavit accompanying the application, the program’s fees and credits are designed to ensure that participating customers are paying the program’s costs, and the program will not impact non-participating customers. Consumers’ response, pp. 6-7. Consumers likens its VLC Pilot to DTE Electric Company’s voluntary renewable energy program approved in Case No. U-18076 and points to the Commission’s language in the October 11, 2016 order in that case as further support for its argument that *ex parte* approval of the application is appropriate. Consumers’ response, pp. 7-8.

In response to MEC’s objections to *ex parte* approval of the application, Consumers reiterates that *ex parte* approval is appropriate because the program does not result in changes to rates or rate schedules and will not cause an increase in the cost of service to customers. Consumers also points out that MEC’s reliance on MCL 460.1022, which requires a contested case if the REP amendment would modify the revenue recovery mechanism, is misplaced because the recovery mechanism is the renewable energy surcharge or transfer price, and the Commission has already decided that a contested case is required if the REP amendment changes the surcharge. According to Consumers, and as Consumers points out in response to other objections, the VLC Pilot does

not change the surcharge or the transfer price; therefore, a contested case proceeding is not necessary for the Commission to approve or deny this amendment. Consumers' response, pp. 8-9.

In response to the Commission's July 12, 2017 order in Case No. U-18349 and the objections filed by MEC, ELPC, and Energy Michigan, Consumers filed a supplemental affidavit of Teri L. VanSumeren on August 2, 2017. In the supplemental affidavit, Consumers reiterated that the company is not seeking Section 61 approval of the VLC Pilot at this time and will re-file the program for approval under Section 61 on or before the October 18, 2017 filing deadline. The supplemental filing provides more information about the program, how the program participants pay for the program, and the real-time hourly pricing rate Market Index Provision for Options A and B of the program. Consumers reiterated that the participants of the program pay for the program, that the program does not affect rates or energy charges of non-participants, and that the program is not subsidized by non-participants. Consumers' supplemental affidavit, p. 4. Consumers explains that the Market Index Provision is an "important component of the Program's renewable pricing options as it aligns the cost and value of energy and assists large customers with achieving their renewable energy goals of reduced energy price volatility." Consumers' supplemental affidavit, p. 4.

Discussion

The proposed VLC Pilot contains two service options for participating customers – Option A and Option B. Option A, as described in Consumers' application and accompanying affidavit, is a more traditional renewable energy program. Customers selecting this option pay the full service tariff rate as well as a per-kilowatt-hour subscription fee. Consumers' supplemental affidavit, p. 3. The subscription fee is designed to cover the costs of renewable energy service, and, in return, the customer receives a corresponding renewable credit based on the value of the renewable energy

and capacity per the Midcontinent Independent System Operator, Inc. (MISO) market. *Id.* If a customer subscribes 100% of its energy usage to the VLC Pilot and takes service under the General Primary Demand Rate Schedule, then the customer qualifies to elect a real-time hourly pricing rate. *Id.* According to the supplemental filing, the subscription fee covers “the cost of construction, operation and maintenance, return of equity, financing, property taxes, insurance, and substation costs,” and “Participants are required to pay all applicable power supply, delivery, transmission, and surcharges for their entire load.” Consumers’ supplemental affidavit, p. 3. With this additional information, the Commission is convinced that Option A customers will pay the cost of service related to the program and not be subsidized by non-participating customers.

Option B customers have the same options as described for Option A customers, but have a different application of the real-time hourly pricing rate. Option B customers who choose the real-time hourly pricing rate are responsible for securing their own power purchase agreements and offering the energy from that resource into the MISO market for payment. Supplemental affidavit, p. 5. The Commission defers consideration of Option B to the Section 61 filing and will include a determination of whether Option B is approved in the context of a Section 61 proceeding.

The Commission has reviewed Consumers’ application and supporting affidavit, the objections of ELPC, MEC, and Energy Michigan, Consumers’ response to the objections, and the supplemental filing and finds that a conditional approval of the Option A Pilot program until October 18, 2018, is appropriate. The approval is conditioned on Consumers filing an application for approval of the program under Section 61 in Case No. U-18351 by October 18, 2017. The Commission is confident that a determination will be made and a final order will be issued in that

case within one year of the filing due date, thus replacing the conditional temporary approval in this case with a more permanent one in the Section 61 case.

The Commission also finds that *ex parte* review and approval is appropriate because the program will not affect rates or rate schedules resulting in an increase in the cost of service to customers nor does the proposed REP amendment modify the surcharge or transfer price for customers not participating in the VLC Pilot.

The Commission finds that because *ex parte* approval is appropriate, it does not need to address the petitions to intervene.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company's application for approval of an amendment to its renewable energy plan, as modified by this order, is approved.

B. Consumers Energy Company shall refile an application for approval of its Voluntary Large Customer Renewable Energy Pilot Program, including Options A and B, in Case No. U-18351 by October 18, 2017.

C. The tariff sheets, as modified by this order and attached as Attachment A, are conditionally approved until October 18, 2018. Within 30 days of this order, Consumers Energy Company shall submit tariff sheets substantially similar to those contained in Attachment A.

D. Beginning 90 days from the date of this order, and every 90 days thereafter, Consumers Energy Company shall file a report in this docket reporting on the progress of its Voluntary Large Customer Renewable Energy Pilot Program.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of August 23, 2017.

Kavita Kale, Executive Secretary

(Continued from Sheet No. C-48.66)

C10. RENEWABLE ENERGY PLAN (REP) (Contd)

C10.6 Voluntary Large Customer Renewable Energy Pilot (LC-REP) Program

The LC-REP Program provides Full Service customers with the opportunity to advance the development of renewable energy by offering customers the ability to match up to 100% of their total annual energy use with renewable energy generated from wind resources. Customers have the opportunity to choose Option A.

Under Option A, Consumers Energy supplies the Renewable Energy Resource from designated renewable facilities. Renewable Energy supplied under this option will be limited to 115,000 MWh annually, which is equivalent to 35 MW of wind nameplate capacity. Renewable energy designated for use in the LC-REP Program shall not be used by the Company for compliance with the state's statutory renewable energy portfolio requirements.

Renewable Energy under Option A shall be provided from wind facilities placed into commercial operation after December 2017.

The LC-REP program will, with conditions, remain open for enrollment until October 18, 2018 following approval by the Michigan Public Service Commission.

Customers that receive at least 50% of their average monthly energy through this program will be exempt from paying the Company's Renewable Energy surcharge. Customers that receive less than 50% of their average monthly energy through this program will be responsible for the full applicable Renewable Energy surcharge.

Option A – Company Provided Renewable Resource

A. Customer Eligibility

Participation is limited to Full Service customers with an annual Maximum Demand of at least 1,000 kW. Participants shall be enrolled on a first-in, first-served basis and matching energy shall not exceed the limits of the amount of renewable energy available for the Program.

The Company shall transfer to the customer or retire the Renewable Energy Credits (RECs), as defined in Public Act 342 of 2016 and in compliance with that Act. If a customer's subscribed energy is in excess of the monthly output from the Program's designated renewable facilities, then the Company will record the shortfall and attempt to satisfy the shortfall with renewable generation in excess of customer subscriptions in future months of the program. The Company will conduct annual quarterly review of the program to reconcile the energy generated by the Program's designated renewable facilities against the amount of renewable energy subscribed by program participants. If the quarterly review demonstrates that the renewable facilities has a shortfall in output versus total subscription for the program, then the Company will provide, at the customer's option, RECs in an amount that satisfies the customer's share of the shortfall.

The Company will refund participating customers their subscription charge for the shortfall, less any cost of the RECs provided to the customer.

The customer subscription level is expressed as a percentage of their monthly energy use. Minimum participation match is 20% of monthly energy use for each enrolled customer account and customers may select participation levels in 5% increments, up to 100% of their total energy use. The customer's subscription charge is a dollar per kWh monthly charge applied to the portion of energy of the customer's account designated to participate in the LC-REP Program and is designed to fully recover the costs of the Program.

(Continued on Sheet No. C-48.68)

(Continued from Sheet No. C-48.67)

C10. RENEWABLE ENERGY PLAN (REP) (Contd)

C10.6 Voluntary Large Customer Renewable Energy Pilot Program (LC-REP) (Contd)

B. Monthly Rate

(1) Billing and Credits

- (a) **Standard Rate:** The customer will pay all applicable Full Service monthly standard tariff charges for their Full Service rate, plus the LC-REP Program subscription charge based on the customer's selected participation level and service agreement term. The customer will be billed on a calendar month basis.
- (b) **Market Index Provision:** Full Service customers served on Rate GPD, who elect to match 100% of their total annual energy use with renewable energy under this Program, will also have the option to substitute the Real Time Locational Marginal Price (RT-LMP) at Consumers Energy's Zonal Load Node, plus a Market Settlement Fee of \$0.002 per kWh, for the Standard Rate power supply energy charges. Customers selecting the Market Index Provision shall be responsible for all embedded capacity and transmission charges included in the standard Full Service GPD Rate. Customers may select the Market Index Provision on an annual basis for the program, after providing a 60 day advance notice.

(c) **Subscription Charge:**

Service Agreement

Initial Enrollment: \$0.0450 per kWh for all kWh subscribed

(d) **Renewable Energy Resource**

Credits: Wind Energy Credit

The customer will be provided a monthly dollar per kWh energy credit based on the RT-LMP at the MISO assigned Load Node for the generated output of the designated renewable facilities. The credit will be based on the customer's pro rata share of the energy produced from the designated renewable facilities and the customer's subscription level. Credits will be reconciled annually based on MISO settled Day Ahead and Real Time LMP related payments for the renewable energy.

Wind Capacity Credit

The customer will be provided a monthly dollar per kWh capacity credit based on the customer's renewable energy subscription under this program and the value of the auction clearing price in the annual MISO capacity auction for the planning period, as determined by the Company. The annual MISO capacity auction takes place in March with the revenue from system capacity being updated for the next twelve months beginning June 1st of each year.

The Wind Energy and Capacity Credits may be paid to the customer via bill credit or direct payment, at the Company's discretion.

C. Term and Form of Contract

The LC-REP Program shall require a written contract. Governmental and Education institutions will be provided the option to prepay for their stated participation term.

D. Early Termination of Contract

Customers who choose to terminate their service agreement under Option A of the LC-REP Program early will be required to take service under the existing rate schedule for the remainder of their contract and will be assessed a negotiated early termination fee, unless the terminating customer's subscription level is adopted by another eligible customer.

(Continued on Sheet No. C-48.69)
